U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

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U.S. Citizenship and Immigration Services

[redacted]

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DEC 21 2004

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date:
(LIN-03-163-51430 relates)

IN RE: Applicant: [redacted]

APPLICATION: Application for Travel Document Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. § 1203.

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Acting Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Iran, who seeks to obtain a travel document (reentry permit) under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. The Acting Director concluded that the applicant is in possession of a valid reentry permit and he is not entitled to be issued a new reentry permit at this time. *See Acting Director's Decision* dated August 11, 2004.

On appeal the applicant does not dispute the fact that he is in possession of a valid reentry permit. The applicant states that he filed an Application for Travel Document (Form I-131) before the expiration of his current reentry permit because it takes a very long time until the Service Center would adjudicate the Form I-131 and a reentry permit is the only travel document he has. The applicant states that there is a discrepancy in the reported processing time online and in the receipt notices, and that a refugee travel document takes a maximum of two months to be issued as opposed to the much longer time to process a reentry permit. In addition the applicant states that if the Service Center had requested him to turn in his current reentry permit he would have done so.

The record of proceedings in this case is for the denial of the Form I-131 and the AAO will not address the backlog or the discrepancies of processing time found on the receipt notices and on line, or between a refugee travel document and a reentry permit.

The regulation at 8 C.F.R. § 223.2 states in pertinent part:

> (b) Eligibility.
>
> > (1) Reentry permit. Except as otherwise provided in this section, an application may be approved if filed by a person who is in the United States at the time of application and is a lawful permanent resident or conditional permanent resident.
>
> . . . .
>
> (c) Ineligibility.
>
> > (1) Prior document still valid. An application for a reentry permit or refugee travel document shall be denied if the applicant was previously issued a reentry permit or refugee travel document which is still valid, unless it was returned to the Service or it is demonstrated that it was lost.

A review of the documentation provided and a search of the electronic database of Citizenship and Immigration Services (CIS) reveal that the applicant was issued a reentry permit on April 16, 2003, valid until April 16, 2005. He filed the instant Form I-131 on April 22, 2003. The instructions for Form I-131 clearly indicate that a reentry permit may not be issued if the applicant was previously issued one that is still valid, has not been returned to the Service Center or has not been demonstrated as lost. Since the applicant did not return the previously issued reentry permit and it was not lost, the application may not be approved.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that the applicant is eligible for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed

The decision is without prejudice to the filing of a new Form I-131, if the applicant returns the previously issued reentry permit with his new application.

ORDER: The appeal is dismissed.